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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/726,749      | 12/03/2003  | Glen Hartman         | GHA1-G87            | 6806             |

50496 7590 07/26/2005

GLEN HARTMAN  
1432 HORN CANYON AVE.  
CHULA VISTA, CA 91915

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| EXAMINER |
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RESTIFO, JEFFREY J

|          |              |
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| ART UNIT | PAPER NUMBER |
|----------|--------------|

3618

DATE MAILED: 07/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                |                              |  |
|------------------------------|--------------------------------|------------------------------|--|
| <b>Office Action Summary</b> | Application No.<br>10/726,749  | Applicant(s)<br>GLEN HARTMEN |  |
|                              | Examiner<br>Jeffrey J. Restifo | Art Unit<br>3618             |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 June 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                                              |                                                                                         |
|----------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/3/03</u> . | 6) <input type="checkbox"/> Other: _____                                                |



## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on 12/3/03 has been considered by the examiner.

### ***Specification***

2. The abstract of the disclosure is objected to because the phrase "is disclosed" in line 1 can be implied and removed. Correction is required. See MPEP § 608.01(b).

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-5 and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Walton et al. (US 6,644,493 B1).

Walton et al. discloses a storage container with package or bag able to store pet food, said container comprising a housing 20 with main chamber and opening covered by lid 50, rolling means or wheels 52, handles 54, and a platform 40 with elevation adjusting means or springs 44, as shown in figures 1-5.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 6-9 and 12-<sup>14</sup>~~13~~ are rejected under 35 U.S.C. 103(a) as being unpatentable over Walton et al., as applied to claims 1 and 11 above, and further in view of Kaiser, II (US 5,480,170 A).

With respect to claims 6-8, Walton et al. does not disclose a pivoting tray or extending handle. Kaiser, II does disclose a wheeled container comprising pivoting tray 26 attached to the sides of the with inherent attachment device, as shown in figure 1. It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided the container of Walton et al. with the tray of Kaiser, II in order to provide support for additional items.

With respect to claim 9, Walton et al. discloses a second handle on the front, as shown in figure 1.

With respect to claim 13, Walton et al. discloses a lid for engaging a rim of the housing, as shown in figure 1.

With respect to claim 14, lids with sealing gaskets are well-known in the art and it would have been obvious to one having ordinary skill in the art at the time of the

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invention to have provided the lid of Walton et al. with a sealing gasket in order to seal the container air tight.

With respect to claim 15, Kaiser, II discloses a telescoping handle 16. It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided the container of Walton et al. with the telescoping handle of Kaiser, II in order to allow a user to pull the cart.

7. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Walton et al. as modified by Kaiser, II, as applied to claim 9 above, and further in view of Waller et al. (US 6,648,349 B1).

Neither Walton et al. nor Kaiser, II disclose an auxiliary container. Waller et al. does disclose a container 10 with auxiliary container 32, as shown in figure 1. It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided the container of Walton et al. as modified by Kaiser, II with the auxiliary container of Waller et al. in order to allow a user to store smaller items.

8. Claims 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walton et al. (US 6,644,493 B1) and further in view of Kaiser, II (US 5,480,170 A).

All the limitations recited in claims 16-20 have been addressed in the rejection of claims 1-15 above.

**Conclusion**

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey J. Restifo whose telephone number is (571) 272-6697. The examiner can normally be reached on M-F (10:00-6:00), alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher P. Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'J. Restifo', with the initials 'JJR' written below it.

Jeffrey J. Restifo  
Examiner  
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